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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,931	09/16/2003	John Higgins	03-029-JH	2331

7590
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08/31/2007

EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

MAIL DATE	DELIVERY MODE
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08/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,931

Applicant(s)

HIGGINS, JOHN

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18,20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18 and 20-22 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 18, line 12, the phrase "said wallet" lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

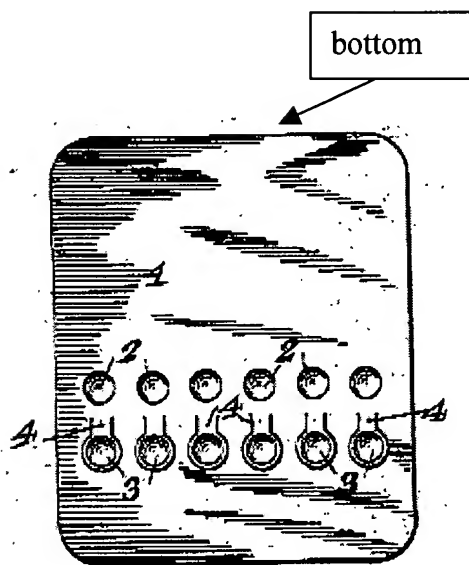
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Bullock in view of Robertson (6,516,950) or Bartell et al. (4,889,236; hereinafter Bartell'236). Bullock discloses a card (1) comprising a top, a bottom, a left side, a right side, a front side, a back side, a cavity (2) for holding oral medical pills and a cavity sealing mechanism (3). The cavity located on and extended outwardly from the top of the card. Bullock further discloses the card having a substantially rectangular shaped and the bottom comprises a thickness of the card.

To the extent that Bullock fails to show the bottom of the card comprises a thickness being equal to or less than a credit card thickness, Robertson teaches a credit card-sized carrier for holding a pill. Robertson also teaches that a credit card have a thickness of about 0.05 inches (column 3,

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lines 55-56). Bartell'236 shows a credit-card-sized blister-pack medication package (10) having a shape substantially similar to a credit card comprising a bottom having a thickness. The bottom of the card including an upper portion (100) with a thickness preferably about 0.0265 inches, a top surface (120) of the upper portion is coated with a clear layer having a thickness preferably about 0.00185 inches, a bottom surface (130) of the upper portion is coated with a clear layer having a thickness preferably about 0.0015 inches, a middle portion (200) having a thickness preferably about 0.0075 inches, a lower portion (400) having a thickness preferably about 0.002 inches and two heat seal layers (510, 520) with each layer having a thickness of about the same thickness of the lower portion (Figure 2 and column 2, line 41 to column 3, line 38). Therefore, the thickness of the bottom of the card is equal to $(.0265 + .00185 + .0015 + .0075 + .002 + 2*(.002)) = 0.04185$ inches which is less than a credit card thickness. Therefore, it would have been obvious to one having ordinary skill in the art in view of Robertson or Bartell'236 to modify the card of Bullock so the thickness of the bottom of the card is equal to or less than a credit card thickness to reduce the material and also to provide more convenience for the user to carry the card in the wallet and also because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.



5. Claims 20-22 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 18 above, and further in view of Collens (4,669,613) or Boone (4,870,764). The card of Bullock as modified further fails to show writing being located on the front of the card below the cavity. Bartell'236 further shows the card comprises writing (20) such as calendar and any other desired product identification information (column 2, lines 49-51). Collens shows a card (1, 2) having writing located on the front of the card below cavities (4-6, rotate the card of Figures 1-2 in 90 degrees clockwise). Boone teaches a card (1, 2) comprising a cavity (7, 15) and writing disposed on the front of the card below the cavity (see the Figure). It would have been obvious to one having ordinary skill in the art in view of Bartell'236, Collens or Boone to modify the card of Bullock as modified so the card includes writing disposed on the front of the card and below the cavity to provide more convenient for the user.

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As to claims 21 and 22, regarding the writing comprises an advertisement or instructions as taught by the prior art, it would have been obvious to one having ordinary skill in the art to modify the writing so it comprises an advertisement or instructions because it has been held that the printed matter merely taught a new use for an existing product and thus couldn't impart patentability. In re Ngai.

Response to Arguments

Applicant's arguments filed on 6/7/2007 and 7/9/2007 have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to the commercial success and the Declarations as to commercial success filed by Mr. John Higgins and Ms. Debbie Burrt on 6/7/2007 have been reviewed and they are not persuasive since both the arguments and the Declarations fail to establish a nexus between the claimed invention and the commercial success because there is no evidence that the product has been sold corresponds to the claimed invention. see MPEP 716.03.

In the Declaration of Mr. John Higgins indicates that "The packages disclosed by the cited references do not contain a separate bottom portion that is free of medical tablet containers" is noted. This is unpersuasive because the package of Bullock comprises a separate bottom portion that is free of medical tablet containers (see the Figure above). The only different between the package of Bullock and the claim 18 is the bottom comprises a thickness that is substantially equal to or less than a credit card thickness and such thickness has been disclosed by the prior art (see above) and since such a modification would have involved a mere change in

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the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
August 29, 2007

/Luan K. Bui/
Primary Examiner
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